

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RAMESH C. GUPTA, M.D.,

Plaintiff,

04-CV-252E(Sc)

v.

**STIPULATION
OF UNDISPUTED FACTS**

NATIONAL LIFE INSURANCE CO.,

Defendant.

The parties, by their undersigned counsel, stipulate to the following facts for purposes of the trial of this action:

1. Defendant, National Life Insurance Company (“National Life”), issued policy No. 1454083 (the “Policy”) to plaintiff on November 10, 1972.
2. As issued, the Policy provided for a \$2,000.00 monthly benefit in the event of the insured’s “total disability,” with benefits for total disability as a result of sickness ending when the insured reaches age 65.
3. Defendant’s Exhibit 1 is a true copy of a rider to the Policy, entitled “Lifetime Income Benefit for Sickness Total Disability Commencing Before Age 50,” that National Life issued to plaintiff effective May 10, 1974.
4. Plaintiff was born on October 6, 1938 and turned 65 on October 6, 2003.
5. National Life paid plaintiff \$2,000.00 per month, the amount of the benefit under the Policy for total disability as a result of sickness, from September 1981 through October 2003, the month in which he turned age 65. For purposes of this litigation, National

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Life does not dispute that plaintiff satisfied the requirements to receive these monthly benefits from September 1981 through October 2003, and plaintiff does not dispute that National Life has paid plaintiff all benefits due him for any period from September 1981 through October 2003.

6. From November 2003 to the present, National Life has paid plaintiff \$1,000.00 per month. (National Life contends that is the amount of the monthly benefit payable under the “Lifetime Income Benefit for Sickness Total Disability Commencing Before Age 50” rider; plaintiff contends that the benefit under that rider is \$2000.00 per month).

7. For purposes of this litigation, National Life does not dispute that plaintiff has satisfied the requirements to receive benefits under the “Lifetime Income Benefit for Sickness Total Disability Commencing Before Age 50” rider.

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